

# **INITIAL DISCUSSION PAPER**

## **Proposed Revisions to Compliance Policy and Procedures Manual Chapter 6 (Close-outs and Clearances)**

### **Issue**

Should proposed revisions to Chapter 6, *Close-outs and Clearances*, be incorporated into the Compliance Policy and Procedures Manual?

### **Background**

The Compliance Policy and Procedures Manual (CPPM) is the State Board of Equalization's (Board) guide for compliance functions including taxpayer registration, account maintenance, close-outs and clearances, and collections. The chapters contained within the CPPM incorporate procedures and techniques that have evolved over the years and have proven to be sound and practical. Board employees are required to follow these procedures to ensure fair and uniform treatment of taxpayers.

CPPM Chapter 6 was last revised in December 1996. New revisions proposed for the chapter include:

- Incorporation of policy and procedural changes that have been implemented since the last revision.
- Incorporation of information on changes in processing work resulting from changes in technology.
- Incorporation of non-substantive changes in grammar and format.

The proposed changes to CPPM Chapter 6 are shown in Exhibit 1 and summarized below. Discussion of the proposed revisions to Chapter 6 is scheduled for the Business Taxes Committee meeting on September 12, 2001.

### **Discussion of Non-Substantive Changes**

Many of the changes are non-substantive. These include a change in references from "pamphlets" to "publications," a change in the prefix of forms from "BT" to "BOE," a change in the name and number of forms due to revisions, and information on changes to the registration system due to new technology. Also, due to reorganizations, unit name changes have been made.

### **Discussion of Substantive Changes**

Substantive changes have been made to the following sections:

CPPM 610.110, Reasons for Close-out. Relevant sections of Operations Memo No. 1089, Revised Uniform Partnership Act (RUPA) and AB 197/AB 198- Partnership Changes and Conversion to Another Business Entity (Type of Business Organization), were added to this

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section of the CPPM. The laws governing partnerships in this state were changed with the adoption of the Revised Uniform Partnership Act (RUPA) which became effective for all new partnerships formed on or after January 1, 1997. It became effective on January 1, 1999 for all partnerships, regardless of when they were formed. RUPA allows for the survival (continuation) of a partnership when partners are added or dropped. Therefore, if the business is being continued, but with the addition or deletion of a partner or partners, it is no longer necessary to close out the partnership permit. Also, relevant sections of Operations Memo No. 958, Annual Review of Sales and Use Tax Accounts Reporting No Sales-Close Out Reason Code 9, were added to this section of the CPPM. Every April, a computer review is made identifying sales and use tax accounts reporting no sales for the prior calendar year. These accounts are sent a letter, to which the taxpayer must respond, advising that their permit will be cancelled if they do not respond and establish to the Board's satisfaction that their permit should remain active. Every July, a mass close-out of the accounts who did not respond or did not establish to the Board's satisfaction that they should remain active is processed using close-out code 9.

CPPM 635.020, Reinstatement After Close-out—Reinstatement After Revocation. Relevant sections of Operations Memo No. 1084, Reinstatement Fees, were added to this section of the CPPM. It has been the policy of the Board to collect the reinstatement fee for locations that were active and operated after the date of revocation but were closed out and inactive prior to the account being reinstated. This policy has changed. Reinstatement fees should be collected only for those accounts or sub-locations of a consolidated account which remain active at the time of reinstatement. Those accounts or sub-locations of a consolidated account that close out subsequent to the date of revocation but prior to the date of reinstatement will continue to be processed with a close out code 8. If those accounts or sub-locations of a consolidated account should reactivate at any time in the future, the reinstatement fee would be due and collectable at the time of activation.

### **Summary**

The closeout and clearance process is a vital function of the Board of Equalization. During this process, the Board obtains necessary information to properly close-out an account and to record information that may be used to follow up on accounts with outstanding items such as security, delinquencies, inventory, audits, differences, and successors. It is imperative to have uniformity during the taxpayer registration, closeout, and clearance process. CPPM Chapter 6 details the processes used to ensure this uniformity.

Prepared by the Program Planning Division, Sales and Use Tax Department

Current as of 05/01/01

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# **Compliance Policy and Procedures Manual**

## **Chapter 6**

# **CLOSEOUTS AND CLEARANCES**



Sales and Use Tax Department  
*California State*  
*Board of Equalization*

*This is an advisory publication providing direction to staff administering the Sales and Use Tax Law and Regulations. Although this material is revised periodically, the most current material may be contained in other resources including Operations Memoranda and Policy Memoranda.*

*Please contact any board office if there are concerns regarding any section of this publication.*

## CLOSE-OUTS AND CLEARANCES

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## CLOSE-OUTS AND CLEARANCES

### CHAPTER VI

## CLOSEOUTS AND CLEARANCES 600.000

### GENERAL STATEMENT ON CLOSEOUTS 605.000

#### SCOPE OF CHAPTER 605.010

This chapter includes policy and procedures for the closeout of sales and use tax accounts. It covers the reinstatement of accounts closed-out in error, correction of erroneous closeout dates, and the issuance of certificates of tax clearance under the ~~s~~Sales and Use Tax Laws. Instructions for on-line input are covered in Chapter XIII, "Taxable Activity Registration Account Maintenance," of the On-Line User's Guide and are not detailed in this chapter.

The policy and procedural statements in this chapter generally follow the same sequence as the items shown on Form BOE-406, Notice of Closeout, beginning with Section A, Identification of Account - Closeout Date.

#### THE CLOSEOUT FORM BOE-406 605.020

~~Closing accounts involves a greater responsibility and participation by every section of the Sales and Use Tax Department, both in Headquarters and in the district offices, than any other single function. Extensive use is made of Form BOE-406 copies by the district offices who have the responsibility for determining that all the tax due has been either paid or assessed, and that audits, where warranted, are made, escrow clearances issued, and security refunded or allotted.~~

Form BOE-406 (Exhibit 1) is used only in the field office and the ~~BOE-406~~ information obtained from the BOE-406 is used for on-line input of information regarding the close-out date, fixtures and equipment, sales tax clearances, forwarding address, compliance assessments, successors, reason for close-out, audit recommendations, and escrow information. The on-line close-out process ~~to~~ removes the account from active status on the registration record. The form may be used as a control tool to follow-up on accounts with outstanding items such as security, delinquencies, inventory, audits, differences, and successors, identify successor accounts, the reason for close out, disposition of inventory, value of fixtures and equipment sold, audit recommendations, in determining successor liability, escrow and predecessor information, security information and disposition and reconciliation of returns, assessments and unpaid balances.

The processing of a closeout will remove an account from revocation status. However, if the account is later reinstated, a reinstatement fee for each selling location that reopens will be required.

Districts should establish procedures to ensure that the close-out process is completed properly.

## COMPLIANCE POLICY AND PROCEDURE MANUAL

### THE CLOSEOUT FORM BOE-406

(Cont.) 605.020

Use the following decision table to decide which publications, forms, and regulations should be provided to the taxpayer at the time of closeout. Those publications, forms, and regulations that are furnished to the taxpayers should be noted in comments.

<u>Closeout Reason (see 610.110)</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>
<u>Publication 74</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	
<u>BOE-65</u>		<u>Y</u>		<u>Y</u>	<u>Y</u>				
<u>BOE-449</u>		<u>Y</u>		<u>Y</u>	<u>Y</u>				
<u>BOE-467</u>				<u>Y</u>	<u>Y</u>				
<u>Reg. 1595</u>				<u>Y</u>	<u>Y</u>				
<u>Reg. 1596</u>				<u>Y</u>	<u>Y</u>				
<u>Reg. 1702</u>				<u>Y</u>	<u>Y</u>		<u>Y</u>		

Directions for completing the closeout forms should be followed in most cases. There are, however, many closeouts of small and part-time businesses where completing all of the entries serves no useful purposes. For these cases an different in-house form may be used, or the information can be entered directly on-line.

~~The office supervisor, or other experienced persons designated, should screen these out before making field assignments, telephone calls to taxpayers, or taking any unnecessary action.~~

### WHEN TO CLOSE OUT AN ACCOUNT

605.030

Closeouts are necessary whenever the operation of a business is terminated or whenever there is a change in the ownership of a continuing business. ~~The preparation, processing, and on-line input of a CloseOut form indicates that the account is closed out and that no returns are to be filed for periods after the Close Out~~ Closeout. ~~A Close out~~ closeouts should not be ~~prepared or processed-initiated on-line~~ until it has been ~~reasonably determined~~ verified that the business has been terminated, rather than moved to another location, or is only temporarily inactive.



## CLOSE-OUTS AND CLEARANCES

### PREPARATION OF CLOSE-OUT FORM BOE-406, SECTION A

610.000

#### RETURN(S) FURNISHED AND REMOTE INPUT

610.005

Check yes or no in the upper left corner of Form BOE-406 and show all periods furnished. In the "Remote Input" box enter the date the close-out is entered ~~transmitted on-line to the Teale Data Center.~~

#### CLOSE-OUT OF MASTER AND SUB LOCATIONS

610.006

If the master permit and all subpermits close out on the same date and for the same reason, the Yes box is checked and it is not necessary to close out the locations individually. In the case of Reason Code No. 4, Business Sold (New Entity), it is necessary that all locations be purchased by one entity to use this procedure. If the sub-locations are closed on different dates and reasons, only the on-line process needs to be completed. ~~Processing locations individually is only necessary when only a portion of a business is sold, or closed or when more than one entity acquires the individual locations.~~

#### CLOSE-OUT DATE

610.010

The close-out date entered in the upper right corner of Form BOE-406, ~~Front and transmitted on-line,~~ should be the actual day, if known, or the date that the entity of record discontinued operations, stopped making sales, or, ~~for any reason,~~ no longer requires a permit or license. If the exact date is not known, an approximate close-out date is used.

Generally a good rule to follow in selecting a close-out date, if the actual day is not precisely known, is to use the last day of the month in which it is known the business was terminated.

If an approximate date is used as the close-out date, it may be corrected ~~when the exact date is determined by use of the on-line~~ if the actual day is determined. ~~close-out maintenance program or a Form BT-523, Tax Return and/or Account Adjustment Notice if necessary (See Subsection 350.040).~~

#### OWNER(S) - C.O.

610.020

The entry made in this position should be the same as the owner's name shown on the registration record.

#### ACCOUNT NUMBER - C.O.

610.030

The account number must be identical with that shown on the registration record. It must be legibly printed or typed so that it will not be misread, resulting in closing out the wrong account on the registration record. ~~The responsibility for a correct and legible entry rests on the person who prepares the form.~~

#### LOCATION OF BUSINESS - C.O.

610.040

The entry should agree with that shown on the registration record.

#### NEW OR FORWARDING ADDRESS - C.O.

610.050

Enter the address and telephone number where the taxpayer can be reached and/or receive mail. If a partnership, update the address information for all ~~identify which~~ partners. Enter the name and address of the employer of the taxpayer(s), if any, or other information that will help to specifically locate the taxpayer(s). New telephone numbers are important.

#### TYPE OR NATURE OF BUSINESS - C.O.

610.060

This should be a description of the business operation. Whenever an Alcohol Beverage Control (ABC) license is involved, the type of license should be described.

## COMPLIANCE POLICY AND PROCEDURE MANUAL

### NEW OWNER(S) - C.O.

610.070

~~Self explanatory.~~ Enter all partner's names, if applicable. If no new owner, show "None."

### ACCOUNT NUMBER (NEW) - C.O.

610.080

Enter the new permit number, if issued. Otherwise, ~~at some point in processing Form BOE 406 (Pink), an alpha search check~~ should be made as part of a final review to determine if the new owner has been properly permitted.

On-line input should not be held up for new owner, permit number, or purchase price information. These items, when obtained, should be entered by the district office on the BOE-406 master copy (pink) and added to the registration record using the on-line close-out maintenance program.

### SUCCESSOR'S LIABILITY

610.090

The entry here should indicate either "yes" or "no." If "no," explain.

Any purchaser who buys a business or a stock of goods and fails to withhold sufficient of the purchase price to clear the account of the seller or who fails to obtain a clearance ~~becomes~~ may be liable for the amount owed by the seller to the extent of the purchase price. It is important that the form show the purchase price as accurately as can be determined and whether the new owner can be held liable as a successor. Use space immediately below; "close-out prepared by"; to enter additional information.

The information entered in this respect must be accurate since it will be the basis for holding the new owner liable as a successor should such action become necessary.

*Reference: Revenue and Taxation Code Section 6812-Sales and Use Tax Law, Sales Tax Regulation 1702*

### PURCHASE PRICE - C.O.

610.100

An entry should be made when applicable. The dollar amount entered in this section should be the total price paid by the successor for the business including any liabilities assumed, good will and the purchase of fixtures and equipment. If the total price includes inventory, so state, and show the approximate value of inventory separately.

### REASONS FOR CLOSE-OUT

610.110

**~~One of the boxes numbered 1 through 8 must be checked in this section. Failure to check one of the boxes will result in the on-line input entry being rejected by the computer.~~**

#### **Code Number 1 - Did not operate**

When a permit has been issued and it is later determined that no actual operation of the business took place, the account will be closed out with a close-out date identical to the starting date shown on the registration record.

~~No. 1 will be checked in the "reason for close-out" section.~~

#### **Code Number 2 - Business discontinued - no successor**

When the business is terminated with no sale to a successor, the close-out should be initiated as soon as possible. Any person whose business is terminated but is holding a permit in anticipation of re-entering business should be instructed to complete the close-out, surrender the permit, and file a new application when re-entering business pursuant to Revenue and Taxation Code Section 6072 of the Sales and Use Tax Law.

Permits held solely for the purpose of making purchases at wholesale should be closed out. The provisions of Section 6094.5 should be brought to the attention of the buyer in these cases.

~~In the foregoing situations, Code No. 2 should be checked.~~

#### **Code Number 3 ~~Business discontinued~~ - Assignment or bankruptcy**

## CLOSE-OUTS AND CLEARANCES

~~When the person holding the permit makes an assignment for benefit of creditors or is adjudicated a bankrupt, a close out will be initiated. Code No. 3 is checked. Close out reason 3 is used only when there is no continuation of the business by the assignee or fiduciary appointed by the court. For assignments or bankruptcies where the business is continued, see "other reorganization" following.~~

### **Code Reason Number 4 - Change in ownership - Business sold (new entity)**

~~If the business is being sold, a close out is required and a new application should be completed as soon as possible after the date of the ownership becomes known. Follow up of the predecessor/successor information is critical, to ensure the appropriate account relationship.~~

### **Code Number 5 - Change in ownership - Change in partnership**

~~If the business is being continued, but with the addition or dropping of a partner or partners, or incorporates, a close out is necessary and a new application should be completed as soon as possible after the change of ownership becomes known. Follow up of the predecessor/successor information is critical, to ensure the appropriate account relationship. (See Section 615.010)~~

### **3 - Business discontinued - Assignment or bankruptcy**

~~When the person holding the permit makes an assignment for benefit of creditors or is adjudicated a bankrupt, a close-out will be initiated. Close-out reason 3 is used only when there is no continuation of the business by the assignee or fiduciary appointed by the court. For assignments or bankruptcies when the business is continued, see "other reorganization" following.~~

### **4 - Change in ownership - Business sold (new entity)**

~~If the business is sold, a close-out is required and a new application should be completed by the successor as soon as possible after the date of the ownership becomes known. Follow-up of the predecessor/successor information is critical to ensure the appropriate account relationship.~~

### **5 - Change in ownership - Change in partnership**

~~The laws governing partnerships in this state were changed with the adoption of the Revised Uniform Partnership Act (RUPA) which became effective for all new partnerships formed on or after January 1, 1997. It became effective on January 1, 1999 for all partnerships, regardless of when they were formed. RUPA provides for the survival (continuation) of a partnership when partners are added or dropped. Therefore, if the business is being continued, but with the addition or deletion of a partner or partners, it is not necessary to closeout the partnership permit. Instead, if the Board is notified of such partnership changes, comments will be entered in IRIS on-line and the account number, names of the dropped partner or partners, and copies of the written confirmation and other evidence will be forwarded to the Registration Specialist, Special Projects Team, Program Planning Division (MIC 40). For Special Taxes accounts, the same process will be followed except that information and confirming documents will be sent to the respective Registration Specialist in the section where the account originated. The Registration Specialist will ensure that proper comments have been entered on-line and will delete the partner's name from registration only if there is no outstanding liability on the account. Otherwise the partner's name will remain on registration. (See Operations Memo No. 1089 and your district office procedures for further information.)~~

~~outeloseout". Code No. 5 is also checked when there is a change in the form of ownership, such as the incorporation of a partnership. Code Number 6 - Change in ownership - Other reorganization~~

~~In the case of an assignment for benefit of creditors, bankruptcy, receivership or probate where the business is continued by a fiduciary appointed by the court, Code No. 6 will be checked.~~

~~In these instances, the new owner is not liable under successor's liability. This is because they are appointed by the bankruptcy or superior court or through an assignment for benefit of creditors to operate the business.~~

### **Code Number 7 - Issue and cancel (See Subsection 240.140)**

~~This code is marked when a notice of close out is prepared at the same time as the application for permit. This occurs when a business has operated unlicensed prior to the time the application is prepared for the business, it is no longer active, and payment in full has not been received.~~

## COMPLIANCE POLICY AND PROCEDURE MANUAL

### **6 - Change in ownership - Other reorganization**

In the case of an assignment for benefit of creditors, bankruptcy, receivership or probate where the business is continued by a fiduciary appointed by the court. The new owner is not liable under successor's liability. This is because they are appointed by the bankruptcy or superior court or through an assignment for benefit of creditors to operate the business. In the case of a conversion to a different entity or form of business organization, the following will apply. Effective January 1, 2000, the laws of this state were amended to allow for conversion from one type of business organization to another, and the legal entity survives the conversion. General partnerships, for example, can now convert to a Limited Liability Company or Limited Partnership, etc., and vice versa. Corporations, however, are universally excluded from doing this - no conversion, for example, is allowed from a partnership to a corporation or from a corporation to a Limited Liability Company. The debts and obligations of the former (converting) entity continue as the debts and obligations of the converted entity. Whenever such a situation arises, where a permittee has converted to an "other" business entity, the permit of the original entity should be closed-out and a new permit issued to the converted or "new" entity. This is because the Revenue and Taxation Code definition of a "person" changes in a conversion (but not in a change of partners under RUPA).

### **7 - Issue and cancel**

This code is marked when a notice of close-out is prepared at the same time as the application for permit. This occurs when a business has operated unlicensed prior to the time the application is prepared, it is no longer active, and payment in full has not been received.

A photocopy of the Form BT 406, Front, should be attached to the Headquarters copy of the permit application and the two documents transmitted to Taxpayer Records Section together, after processing the close-out.

### **Code Number Reason 8 – Close-Out After Revocation**

Close-out code "8" signifies an account was closed out after revocation occurred, regardless of whether the close-out date occurred before or after the effective date of revocation. Close-out code "8" is used in lieu of any other close-out codes on all revoked accounts and/or sublocations of a revoked account which have operated. Reason code "8" is used for any sales and use tax account.

Revoked accounts will be closed out only after investigation has positively confirmed the account has ceased doing business, either through phone calls, field investigation or contact with the taxpayer. Returned mail in itself is NOT sufficient cause to close the permit as a taxpayer may simply be operating at another location. (See Section 360.140)

### **9 - Mass Closeout**

Closeout Reason "9" signifies an account was closed-out in the mass closeout process (CPPM See Section 645.130). These are part-time accounts that have reported zero sales in a twelve month period.

### **REPORTING BASIS - C.O.**

**610.120**

This item must be checked to reflect the reporting basis shown on the registration record even if the basis is different from that in effect on the close-out date.

### **STARTING DATE - C.O.**

**610.130**

The month and year inserted here must agree with the registration record.

### **OTHER BOARD ACCOUNT NUMBERS**

**610.140**

This item must always show one of two entries:

"None" - if no other accounts have been issued to the entity of record.

May 2001

## CLOSE-OUTS AND CLEARANCES

~~Appropriate~~ Prior or additional account numbers related to the owner(s) must be entered ~~in their entirety~~, if applicable.

### **CLOSE-OUT PREPARED BY - OFFICE - DATE**

**610.150**

These items are self-explanatory and must be filled in. The date shown should be the day Form BOE-406 is prepared.

### **ACCOUNT RECORD VERIFIED BY**

**610.160**

Before input of the Form BOE-406, Section A information, the items entered thereon must be checked against the registration record. The person whose initials appear in this box will verify the accuracy and legibility of the owner's name, the account number, the close-out date, and the indication of a reason for close-out. The importance of legibility and accurate information on the close-out form cannot be overemphasized.

**PREPARATION OF CLOSE-OUT FORM BOE-406, SECTION B****615.000****VALUE OF FURNITURE AND EQUIPMENT SOLD - SUBJECT TO TAX****615.010**

The Tax applies to that portion of the gross receipts from the sale of a business that is attributable to the transfer of tangible personal property held or used in an activity for which the seller is required to hold a seller's permit, and acquired by the purchaser for use rather than for resale.

The Tax also applies to that portion of the gross receipts from the sale of a business that is attributable to the personal property transferred, even though such property was held or used in an activity for which a seller's permit was not required, where the property was sold in separate sales or to three or more buyers when the sales are significant in size, scope and character.

In the case of contributions to ~~commencing~~<sup>beginning</sup> partnerships or corporations, the tax applies to that portion of the consideration received which does not represent capital interest in the new partnership or first issue stock in the new corporation. See the following regulations for more complete detail and exemptions.

*Reference: ~~Sales Tax~~ Regulations 1595 and 1573*

**TAXABLE SALES OF EQUIPMENT NOT REPORTED****615.020**

If taxable sales of equipment occurred during the operation of the business, the taxpayer should report and pay the tax on the return for the period in which the sales occurred. Tax on sales of equipment should also be included on prepayment forms when the amount of prepayment due is determined by use of Prepayment Option 1. If the taxpayer neglected to report taxable sales of equipment, the additional tax should be reported ~~recommended~~ on a Fixtures and Equipment Compliance Assessment, Form BT-1043-D, Determination Request, or a Tax Return Adjustment Voucher, Form BT-1043 when payment in full is received. If payment in full is not received, a regular Compliance Assessment should be prepared, and no penalty is involved. ~~Additional tax can be included in a BT-414 B, Field Billing Order or an audit if one is to be made.~~

If the sale of equipment was made in conjunction with the sale of the business it should be included in the closing return on line 2 and marked "Fixtures and Equipment." It should also be included on prepayment forms when determining the amount of prepayment by use of Prepayment Option 1. If the closing return has already been filed by the time the closeout is made and the sale was not included, a regular Compliance Assessment, Form BT-1043-D should be prepared, ~~recommending assessment of the tax or, If payment in full has been received is made and no penalty is involved, a~~ Fixtures and Equipment Compliance Assessment, Tax Return Adjustment Voucher, Form BT-1043, should be prepared (See Sections ~~540.190 and 540.200~~) used.

**Local Tax**

**When a business location closes on a regular or consolidated account, and all that remains is the sale of fixtures and equipment, the business location where the principal negotiations occur is considered to be the place of sale for purposes of allocating the local tax. This may or may not be a business location for which the taxpayer is required to hold a seller's permit.**

**SALE OF FIXTURES SUBSEQUENT TO DATE OF CLOSE-OUT****615.030**

If a sale of fixtures and equipment is not contemplated at the date of close-out, a subsequent single sale of the fixtures may be treated as an occasional sale. However, the single sale of fixtures and equipment subsequent to the date of close-out is taxable if either:

The sale occurs within 60 days of the date of close-out and the taxpayer cannot establish that the sale was not contemplated at the time of close-out; or

The sale takes place after 60 days and within one year of the close-out date, and:

- A contract of sale existed at the date of close-out, or

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## CLOSE-OUTS AND CLEARANCES

- A lease with an option to buy exists, or
- Arrangements are in existence evidencing a plan to sell the fixtures and equipment in due course.

Unless the taxpayer makes sales which would otherwise qualify him as a retailer, a sale will be evaluated and may be regarded as an occasional sale considered exempt if it occurs over 12 months after the last prior sale. ~~This is true even though there is a contract of sale or an option in existence at the close out date.~~ If ~~taxable~~ the sale is subject to tax, a Fixtures and Equipment compliance assessment must be initiated.

~~it may be reported on a BT-1043, Tax Return Adjustment Voucher.~~

### **F & E INCLUDED IN FINAL RETURN, ~~BT-1043, BT-1043-D, BT-414-B OR AUDIT~~** **615.040**

Check the appropriate box to indicate how the tax on the sale of fixtures and equipment is being reported. If necessary, write in the appropriate type of assessment.

### **SOURCE OF INFORMATION RE VALUE OF FURNITURE AND EQUIPMENT** **615.050**

~~Enter source of~~ Verify information, such as escrow, buyer, seller or books and records.

~~Refer to the applicability of Sales Tax Regulations 1595 and 1573.~~

### **DISPOSITION OF INVENTORY, PURCHASED FOR RESALE OR FROM OUT-OF-STATE IS INCLUDED IN** **615.060**

~~Make appropriate indication as to~~ Verify disposition of inventory. ~~in this section.~~ Any inventory purchased ex-tax and retained for personal use is taxable and should be reported in the final return.

### **FORM BOE-467 TO BE ISSUED** **615.070**

Indicate ~~If~~ a Form BOE-467, Notice of Requirements in the Sale of a Business, will ~~is to~~ be issued. ~~check the yes box.~~

### **REQUEST IN WRITING FOR FORM BT-471, CERTIFICATE OF PAYMENT OF SALES AND USE TAX** **615.080**

This box must be checked either "yes" or "no" and the date it is received must be entered if the "yes" box is checked. (See Section 650.000).

### **LOCATION OF RECORDS - C.O.** **615.090**

Enter the physical location of the books and records of the owner(s).

### **IN CARE OF - C.O.** **615.100**

This entry should show the name of the person who has control of the books and records, such as an accountant, an attorney, bankruptcy court, etc.

### **DATE PRIOR AUDIT COMPLETED** **615.110**

~~If a prior audit has been made, the information will be found in the master file of the closed out account.~~ When applicable, this box should be completed, along with the next sections, covering period, and together with the liability recommended section.

### **AUDIT RECOMMENDED** **615.120**

~~Tax Representatives or other e~~ Compliance ~~titled~~ personnel familiar with the area in which the business is located and/or having special knowledge or information of the account available to them, should make the initial audit recommendation. Information regarding audit selection may be viewed in the Taxpayer Profile screen (TPS TP). ~~The~~

## COMPLIANCE POLICY AND PROCEDURE MANUAL

~~same standards that are used for audit selection of active accounts will be used in making recommendations on close outs. If the compliance titled person has no specific information on the business, the audit recommendation will be made by the audit staff. However, if the compliance titled person has any information which may assist the auditor in making his decision, it must be noted it on or attach it to the BOE 406. If the account is selected for audit, specific information regarding the audit (i.e., name of auditor and auditor's supervisor may be viewed in the Audit Maintenance/Inquiry screen-AUD MC). In addition, it is suggested that compliance personnel staff check with the audit personnel staff periodically to set referral guidelines covering items such as, types of business, sales volume, claimed deductions, or other factors known to be of significance by the district. Examination of the taxpayer's records may be necessary; however, the "Active Account Inventory List" that shows taxable sales and exemptions claimed for the previous year is available in every district and sub district office. Prior audit and return information is also available on the video to assist in the recommendations. The final audit decision is the responsibility of the District Audit Section. Because only a small portion of the total close-outs will be audited, therefore, verification of payment or recommended assessments for additional tax due, is the responsibility of the compliance section where no audit is to be made. Form BT 414 B, Field Billing Order, BT 1043 D, Determination Notice or Form BT 1043, Tax Return Adjustment Voucher, where appropriate, will be used when unreported sales are found. Particular attention must be given to the disposition of remaining inventory and fixtures and equipment.~~

### AUDITOR'S WORKSHEET FORM BOE-414, ETC.

615.130

This item will be completed by the audit staff when applicable.

### AUDIT RECOMMENDATION BY

615.140

The person making the audit recommendation should sign their name in this box, and enter the date of the recommendation in the next box.

### APPROVED BY - AUDIT

615.150

This will show the signature or initial of the person or his delegate in the district office having the responsibility for audit selection.



## CLOSE-OUTS AND CLEARANCES

### PREPARATION OF CLOSE-OUT FORM BOE-406, BACK 620.000

#### ESCROW AGENTS AND PREDECESSORS 620.010

~~If applicable, the name and address of the escrow agent and the telephone number, if available, should be entered in the appropriate section, or enter the word "none".~~

#### TAX LIABILITY IN PREDECESSOR'S ACCOUNT - C.O. 620.015

This should be marked either "yes" or "no" and the predecessor's account number entered in the box. If there is no predecessor, the word "none" should be entered in the box.

~~If there is a predecessor's balance, the information should be shown in Section E, beneath the "yes" and should indicate the type of billing, the date of the billing and the amount due.~~

#### DISPOSITION OF SECURITY AVAILABLE 620.020

Savings and Loan Certificates: Enter the dollar amount of the savings and loan certificate as its face value here. If the savings and loan certificate is to be cashed and applied, check the Cash and Apply box. If it is to be released, check the Release box.

Time Certificate of Deposit: Enter the dollar amount of the face value of the time certificate of deposit in this section. If the time certificate is to be cashed and applied, check this box; if it is to be released, check the Release box.

Treasury Bond: Enter the face value of the treasury bond, along with the number of the bond. If the treasury bond is to be cashed and applied, check this box; if it is to be released, check the Release box.

Surety Bond: Enter penal sum, number and effective date of bond.

Name of Surety: Enter the name of the surety company in this section.

Other: Form BOE-140's (personal guaranties), Federal or State Credit Union Shares.

Security Under Other Business Tax Accounts: Check "yes" or "no" in this section. If "yes" is checked, the amount section should show the face dollar value of the security; and the account number should be entered in the appropriate box.

Balance and Delinquencies: If applicable, these two sections should show how much money is due, the type of billing, and the period of the billing or what period is delinquent. The delinquency period should be shown by using the ending month and year of the period (e.g. 0399 for March and 1st quarter 99).

~~as follows:~~

~~If a quarterly delinquency is listed in this section, it should be shown as 1 95, 2 95, 3 95, 4 95, etc.~~

~~If a monthly delinquency is listed in this section, it should be shown as Jan 94, Feb 95, etc.~~

~~If an account is delinquent for the year, the delinquency should be shown as: Yr. 94, Yr. 95, etc.~~

Date Bal. and Del. Checked: Should be as current as possible. If an old date appears here, it should be erased or crossed out, bal. and del. checked again, and the new date entered.

Cash Deposit: Show the full dollar amount of cash deposit available for application.

Returns and Billings: The Final Return section should be completed and correspond with the close-out date on the front portion of Form BOE-406. The Period for this section should be written as indicated in the above delinquency examples.

There are two sections below Final Return that are captioned Return. These three sections should follow in consecutive periods beginning with the Final Return Period.

## COMPLIANCE POLICY AND PROCEDURE MANUAL

BT-1043-D (Compliance Assessment): Enter (if applicable). The period and date of the Compliance Assessment.

Field Billing Order: Enter (if applicable), the period and date of the field billing order.

Final Audit: Should be filled in as soon as amount of determination is known, usually done by the audit reviewer.

Unpaid Balance: Enter the type of billing and the period(s) ~~or periods~~ covered by the billing, ~~such as Form BOE 1212, period 1-85, or the applicable form.~~

Predecessor's Balance: Enter the appropriate billing and the period of such billing in this section.

Liability Under Related Account Numbers: ~~Will~~ Indicate the type and period of billing with account number(s) in this section.

Total Due: Enter the dollar amount of the tax due in each block corresponding to the appropriate left-hand column entry.

Amount Paid: An entry will be made here only when a taxpayer, his agent or representative, or an outside fiduciary, such as an escrow company actually has paid funds to the Board for this account. Payment to clear a closed out account should be in cash or its equivalent. However, personal checks may be accepted but before security can be released/refunded or a clearance certificate issued either:

1. ~~p~~Proof of payment of the check will be required or
2. ~~a~~A sufficient period of time must elapse to ensure the check will not be dishonored by the taxpayer's bank. A sufficient period of time is considered to be up to a maximum of sixty working days unless, in certain isolated instances, to protect the Board's interests, a longer period is required. If a shorter period than sixty days, depending upon banking situations, bad check history, etc., in your district, can be used, you should do so.

All Payments made by personal checks will be identified by circling the amount, i.e. \$265.15.

Evidence of Payment: Enter the date and receipt number of payments made in the district office. Enter the check legend (batch numbers and date) of canceled checks presented as proof of prior payment. If no proof is available enter the word "none." For credit card payments, presentation of the credit company's statement which shows the charge due to the credit card company is sufficient evidence of payment.

Deduct: This column is used to deduct from a savings and loan certificate, a time certificate of deposit, ~~a treasury bond,~~ or a cash deposit. All deduct items should show the dollar amount in the Deduct column.

The Total Deductions must not exceed the total amount of cash available to apply to the liability owed. If the total deductions are less than the total security available, another computation must be made in the section that says Amount to be Refunded. The box that indicates To: Name must be filled out completely, showing the address, city, state, and ZIP code, if available. This responsibility rests with the person and office preparing this part of the form even though the pink Form BOE-406 will be sent to another office (district of control) for preparation of a refund check.

Balance Owning: Check and enter dollar amount, when applicable. Check escrow claim or escrow withhold, when applicable.

Escrow Claim Filed: Must be checked and filled-in, if appropriate.

Escrow Withhold Filed: Must be checked and filled-in, if appropriate.

Escrow Release Approved By: The signature or initials of the person designated, usually the office supervisor, should be entered here.

Security Report Prepared By: The signature or initials and date will be entered in this section by the security clerk.

Security Report Approved By: The signature or initials of the person designated, usually the office supervisor, and the date, will be entered in this section as evidence that all actions required have been taken.

### ORDER OF APPLICATION OF CASH DEPOSITS AT CLOSEOUT

620.030

Whenever a cash deposit is to be applied to more than one period or liability, the order of allocation shown below, will be followed and interest and penalty will be computed accordingly.

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## CLOSE-OUTS AND CLEARANCES

1. To self-declared tax due for the final reporting period.
2. To self-declared tax due for any preceding reporting period when the due date for such period is on or after the close-out date.
3. To tax determined to be due for the final reporting period.
4. To tax determined to be due for any preceding period when the due date for such period is on or after the close-out date.
5. To any and all liabilities allocated to the oldest delinquent liability first, ~~the next oldest delinquent liability second, etc.~~
6. To an audit determination allocated to the oldest liability first.
7. To interest and penalty.
8. The remainder of any security is available for other business taxes accounts held by the same entity.

No reallocation will be made in those instances where a deposit has been applied in compliance with the above order of allocation and, at a subsequent date, additional unpaid liability is disclosed. For example, a deposit might be applied in its entirety in accordance with items a, b, and e, but an audit made sometime later disclosed liability contemplated by items c and d. Under such conditions, the deposit will not be reallocated.

*Reference: Revenue and Taxation Code Section 6815, ~~Sales and Use Tax Law~~*

### **APPLICATION OF CASH DEPOSIT TO AMOUNTS DELINQUENT ON CLOSE-OUT DATE** **620.040**

If any portion of a cash deposit is applied upon close-out to an amount of tax which was delinquent on the close-out date, interest must be computed and penalty added to the date on which the cash deposit became available. If any liability of this type exceeds the amount of cash deposit available for application thereto, interest and penalty must be computed to the date of payment on the portion not paid from the cash deposit.

### **APPLICATION OF CASH DEPOSIT TO INTEREST AND PENALTY** **620.050**

No portion of a cash deposit should be applied to interest or penalty until all tax liability has been paid.

### **ERRONEOUS REFUNDS OF CASH DEPOSITS** **620.060**

If a cash deposit, available on the close-out date of an account, is erroneously refunded instead of being applied to a timely filed return(s), ~~no interest or penalty will not be added to the amount which should have been paid~~ timely from the security. ~~where these charges would have accrued solely because of the erroneous refund. The billing (Statement of Account) will, However, a failure to pay penalty will apply provide for additional penalty if not paid within thirty days from the date of billing, and appropriate monthly interest will accrue from the last day of the month following the penalty date.~~

If a final audit is made, effect will be given to the erroneously refunded security (or any portion which would have been available to apply on the audit) in the computation of interest and penalty included in the billing. The billing (Determination) will, however, provide for additional penalty if not paid within thirty days and appropriate monthly interest will accrue from the last day of the month following the penalty date.

In cases where nothing is owing at the time a refund is made and a liability is later developed through an audit, interest and penalty charges will be added as though no security was available.

## PROCESSING CLOSE-OUTS

625.000

### ROUTING FORM BOE-406 BETWEEN DISTRICTS

625.010

Districts are not restricted from processing on-line input on another district's account. Therefore, when Form BOE-406 is prepared in a district other than the district controlling the account, the information will be input on-line before the form is routed to the district of control for further processing.

### CLOSE-OUT OF ACCOUNT IN REVOKED STATUS

625.030

The processing of a close-out will remove an account from revocation status. However, if the account is later reinstated ~~as an account closed out in error~~, a reinstatement ~~fee application, Form BOE 400 REIN, and a of \$50.00 fee~~ for each selling location reinstated will be required.

### CLOSE-OUT OF ACCOUNTS IN GOOD STANDING (NOT REVOKED)

625.040

All in-district close-outs are processed on-line by the district of control. Close-outs may be processed on-line without completing a BOE-406 when the circumstances and district policy do not require ~~the need for~~ a BOE-406. Refer to your immediate supervisor to determine when a BOE-406 is required.

## CLOSE-OUTS AND CLEARANCES

### CLOSE-OUT IN ERROR

635.000

#### GENERAL LIMITATIONS

635.010

An account closed out in error may be reinstated not later than eighteen calendar months after the date the district processes the close-out on-line, provided all delinquencies have been cleared.

Where operations have actually ceased at the specific location and a close-out has been processed, the account will not be reinstated if operations are resumed at this or any other location at a later date. A new application must be prepared and a new permit number issued.

#### REINSTATEMENT AFTER CLOSE-OUT - REINSTATEMENT AFTER REVOCATION

635.020

Reinstatement after close-out in conjunction with a reinstatement after revocation is accomplished on-line ~~by using the AR, Reinstatement of Account Closed in Error program.~~ The appropriate reinstatement fee is required. If the ~~reason for close-out is reason "8,"~~ a new permit is generally required since code "8" indicates the actual discontinuance of business operations has been verified. In addition to single location accounts, this also applies to subpermit locations of consolidated accounts. . Reinstatement fees should be collected only for those accounts or sub-locations of a consolidated account which remain active at the time of reinstatement. Those accounts or sub-locations of a consolidated account that close out subsequent to the date of revocation but prior to the date of reinstatement will continue to be processed with a close out code 8. If those accounts or sub-locations of a consolidated account should reactivate at any time in the future, the reinstatement fee would be due and collectable at the time of activation.

#### REINSTATEMENT OF ACCOUNT AFTER CLOSE-OUT IN ERROR

635.030

When a closed out account is to be reinstated after close-out in error, ~~use the it can be accomplished on-line. AR, Reinstatement of Account Closed in Error program.~~ For consolidated accounts, all or part of the sub locations can be reinstated. ~~AR, in the Reinstatement of Account Closed in Error program.~~ Accounts which have actually ceased business operations for a full reporting period may not be reinstated. A new permit is required in this case (See Section 635.010). ~~AR, in the Reinstatement of Account Closed in Error program~~

#### REINSTATEMENT OF ACCOUNT AFTER CLOSE-OUT - INTRADISTRICT MOVE

635.040

The reinstatement of a sales tax account now operating at a different location within the same district does not require special handling. After reinstating the permit ~~on line~~ (635.050) make the necessary address changes ~~using the on-line.~~

#### REINSTATEMENT OF ACCOUNT AFTER CLOSE-OUT - INTERDISTRICT MOVE

635.050

The reinstatement after close-out of a sales tax account in conjunction with an interdistrict move requires special handling after the account has been reinstated and the address changed. See CPPM Section 315.000 et. seq. for instructions.

#### CHANGE OF INCORRECT CLOSE-OUT DATE

635.060

~~If the close-out document has been processed and transmitted to Headquarters and it is later found that the close out date is shown was incorrect, the date may be corrected on the on-line close out maintenance program or by completing Section 1 of the Form BT 523, Tax Return and/or Account Adjustment Notice when moving returns is necessary. Clarifying comments may be entered in Section 8 of the form (See Subsection 350.040.).~~

~~When the new close out date falls with in the same reporting period as the old date and the period involved is not delinquent and no reallocation of local tax is required, it will not be necessary to complete Form BT 523 for Headquarters. The change in close out date may be made on line using the CM, Close out Maintenance program~~

## COMPLIANCE POLICY AND PROCEDURE MANUAL

### REINSTATEMENT OF CONSOLIDATED ACCOUNT CLOSED OUT IN ERROR, MASTER AND SUBPERMITS

635.070

Consolidated master and subpermits are all reinstated on-line, ~~using the AR, Reinstatement of Account Closed in Error program.~~ If the master has been closed out in error it may be reinstated with all subpermits, or the subpermits may be reinstated individually. Refer to Section 315.000 et. seq. and the Taxable Activity Registration User's Guide for additional policy and procedure.

## CLOSE-OUTS AND CLEARANCES

### MISCELLANEOUS - CLOSE-OUTS

645.000

#### PROOF OF PAYMENT

645.010

Proof of payment should be obtained for all reporting periods with due dates within three months of the current month, if an escrow clearance or security release is required.

If at closeout there are delinquencies, the representative should attempt to secure the returns and payment from the taxpayer. The same should be done with respect to any balances that might be owing. If these items are not cleared at the time of closeout, subsequent efforts will be necessary. (See Section 620.020)

#### CLOSEOUTS OF TEMPORARY SELLER'S PERMITS

645.020

It is not necessary to process close-outs on temporary seller's permits as they are closed-out immediately by the system upon issuance.

~~The filing of the return covering the period of operations is sufficient to close the account. If the return is not filed, a delinquent notice is mailed from Headquarters and a special list of delinquent temporary accounts is supplied the district each month. The closeout can be processed on line.nm~~

#### DISPOSITION OF PERMITS AND LICENSES

645.030

Upon closing an account, the former permittees are required to surrender their permits. A reasonable effort should be made to obtain the permit or license to prevent its misuse for purposes of evading the tax. If the permit cannot be located, the person should be instructed to destroy it if found.

#### COLLECTION RESPONSIBILITY ON CLOSE-OUT ACCOUNTS

645.040

The responsibility for collecting any balance due on a closed-out account remains with the district in which the person last held a permit or license prior to the close-out date. If a balance is owing at the time of close-out, or is later developed, the amount due will remain on the accounts receivable of the district in which the person last held a permit or license until it is collected. No request for a transfer to another district of a closed-out account should be made even though the person moves to another district. When this occurs, the district to which the person has moved should be provided with full particulars regarding the liability and should be requested to make collection. District account files should not be transferred on closed out accounts.

#### CLEARING DELINQUENT CLOSED-OUT ACCOUNTS

645.045

A designated ~~clerical~~ employee, no less than once a month, will use DEL REV report the video to produce listings of delinquent temporary accounts and delinquent closed-out accounts. ~~(DEL 7 and DEL 5).~~ Delinquencies due to misdirected or erroneous documents will be cleared by proper routing of forms or preparation of account maintenance documents as needed.

~~Staff permitting, clerical p~~ Personnel should take additional steps ~~as the follows~~ to clear delinquent periods: ing should be taken to clear delinquent periods; on district designated account categories:

1. • Contact by letter (Form BOE-65) or telephone.

2. • Perform preliminary skip tracing (check references, video and telephone books).

3. • Mail notice to appear (Form BOE-420).

- Delinquencies which are not cleared within 30 days of contact will be referred to the supervisor or as instructed.
- If the taxpayer cannot be contacted and the account appears to meet waiver of return criteria, initiate an on-line Waiver of Liability. ~~(IRIS Student Guide: Module 2, Lesson 2), a Form BT-657 will be prepared~~ (See Section 645.050)

## COMPLIANCE POLICY AND PROCEDURE MANUAL

### CLEARING DELINQUENCIES OF SMALL ACCOUNTS

645.050

Generally, ~~accounts coded 29, part time or 28, itinerant, or temporary~~ temporary accounts fall into this category. Frequently, excessive amounts of time and effort are necessary to clear delinquencies even though a small liability is involved.

~~The following procedure~~ The on-line Waiver of ~~Liability~~ Liability may be used to reduce costs when closing out a small account. ~~Where delinquencies exist, security is not available, there is no successor, and the taxpayer cannot be located, and the potential tax liability is within Board guidelines, \$100, initiate an on-line Waiver of Liability.~~

~~If you determine the potential tax liability (IRIS Student Guide: Module 2, Lesson 2).~~

### RECORDS NOT AVAILABLE AT TIME OF CLOSE-OUT

645.060

Even though taxpayers and their records may be missing at the time of close-out, action must be taken to close their accounts, clear any delinquencies that might exist, and dispose of any security that might be posted.

If necessary, review the on-line revenue system. This will provide information on sales reported for prior periods. This will also provide a basis for a possible Compliance Assessment (CAS) ~~estimating amounts~~ to clear any delinquencies that exist. ~~When a field billing order is prepared to clear delinquencies, Form BT 523, Tax Return and/or Account Adjustment Notice, must also be prepared to identify the delinquencies being cleared.~~

If the business operated for a short period and no returns were filed, some reasonable method of estimating the sales must be found. The returns of a predecessor or successor for a similar type of business in the same area may provide some help.

~~Any estimates on billing orders should be made on a sound basis. The estimated amounts should be as near as possible to the amount of tax actually due without regard to security available, possibility of immediate collection, or any other outside influence.~~

### OUT-OF-STATE CLOSE-OUTS - SALES TAX

645.070

When ~~districts are in receipt of close out information processing closeout~~ Out-of-State District accounts, the ~~close-out~~ closeout forms BOE-406 should be completed insofar as possible from information available in the district. After all information available is entered on the form, the original and all copies of the Form BOE-406 will be forwarded to the Out-Of-State District. In-s-State districts should not process Out-of-State closeouts on-line. The Out-of-State District will handle the actual closeout of the permit.

### OUT-OF-STATE CLOSE-OUTS - SINGLE OUTLET, IN-STATE LOCATION

645.080

Single outlet in-state sales and use tax accounts with out-of-state books and records are assigned to the Out-Of-State District. When close-outs of this type of account are made, the Out-Of-State District will send a copy of the Form BOE-406 to the office involved. The Out-Of-State District will also notify districts involved in interdistrict transfers of these accounts.

### TAXPAYER DEPARTED FROM STATE WITH RECORDS

645.090

~~If, after termination of a business, the taxpayer leaves the State with his/her records, and if his/her out of state address is known, he/she should be informed by mail of the close out requirements. If he/she fails to respond and returns remain unpaid after the due date, an Compliance Assessment estimated determination may be recommended. using a BT 1043-D. If there appears to have been a substantial understatement of tax, an audit may be scheduled and referred to the Out-Of-State District with all information available.~~

### CLOSE-OUT AND AUDIT RECORD RETENTION PROCEDURES OF VEHICLE DEALERS IN CALIFORNIA

645.120

Department of Motor Vehicles

May 2001



## CLOSE-OUTS AND CLEARANCES

a. When a DMV investigator finds that a vehicle dealer has closed out, sold his/her business, or not renewed his/her dealer's license, the local Board office will be notified by telephone. If the Board wishes to audit the business and requires the report of sale books, which the dealer turns over to DMV, they will be delivered to the Board. If the Board does not require the report of sale books, the dealer's copies will be destroyed immediately. DMV retains its copies for one year. When there is no further need of the report of sale books, they will be returned to DMV to be destroyed. DMV will also provide the close-out date and location of books and records if known.

b. When DMV is reviewing a dealer's report of sale books and finds evidence of noncompliance with DMV laws, copies of the reports of sale indicating noncompliance will be sent to the local Board office.

### Board of Equalization

The Board will do the following when it discovers that a vehicle dealer has closed-out or sold his or her business:

- Notify the DMV office closest to your location by telephone.
- Give the required vehicle dealer information to any field investigator at the DMV office contacted.
- Request report of sale books if required.

The Board will also provide the close-out date and location of books and records if known. If DMV has not already contacted the dealer, they will do so and ~~thereafter~~fore either deliver the report of sale books to the Board or destroy them, depending upon the Board's requirements.

The Board will notify the local DMV office by telephone when either of the following situations arise on active vehicle dealer accounts:

- A vehicle dealer has an outstanding liability that requires a field assignment.
- A vehicle dealer is being audited and it appears the dealer is in financial trouble. Before contacting DMV and providing this information the following conditions must exist:
  1. Based on the audit, it does not appear the business is properly financed to clear the probable liability immediately or within acceptable installment payment plan timeframes.
  2. There is factual information produced through our audit that the business is in financial trouble.
  3. The District Administrator or Branch Office Supervisor -approves the telephone call.

A notation that DMV has been contacted should be entered on the compliance or audit assignment report or Form BOE-129, Summary of Action.

### ANNUAL REVIEW OF ACCOUNTS REPORTING NO SALES

645.130

Annually, in March, Form BOE-1293 is sent to those accounts that show no sales in the Revenue subsystem. This occurs when there is no entry on Line 1 of the return and zero tax shown on the "Total Amount Due and Payable" line.

The taxpayers must respond to Form BOE-1293 in order to retain their permit. Those who do not respond, or who give insufficient reason to retain their permit, will be automatically closed out.

Taxpayers who complete the Request for Retention of Seller's Permit on the back of Form BOE-1293 will return ~~the~~it to the district office. Each request received must be evaluated to determine whether or not the taxpayer should retain the permit.

District offices will receive a list of the district accounts that receive Form BOE-1293. The list is in terminal digit order, and shows the account number, owner's name, DBA, reporting basis, industry code and area code.

The list will be prepared for Data Processing input by circling the account number of the accounts which are not to be closed-out (see sample below):

SR AC 11-619600	Russell Avenue School ...etc.
SR AC 11-640100	A. G. Dennis...etc.

## COMPLIANCE POLICY AND PROCEDURE MANUAL

SR AC 11-667800

F. Thompson ...etc.

Those accounts not circled will be closed-out. It is extremely important that this instruction be followed carefully and exactly since the closeouts will be processed through a mass change. The effective closeout date for fiscal yearly basis accounts will be June 30 of the prior year. The effective closeout date for all other accounts will be December 31 of the prior year. Form BOE-406, Notice of Close-Out, will not be prepared for these accounts.

The district office will continue to evaluate the Requests for Retention of Seller's Permit and to mark the list accordingly until a designated day in mid May. At that time, the list will be sent to Headquarters Registration Unit. Data Processing will then print Form BOE-1293-A, Notice of Cancellation of Seller's Permit, which will be sent to the accounts which the district indicates are to be closed-out.

If an account has been closed out ~~by remote input, or by Form BT 406 process,~~ but appears on the list of accounts reporting no tax, the account number of the closed-out account should also be circled. This will ensure that accounts which are already closed-out do not receive Form BOE-1293-A, "Notice of Cancellation of Seller's Permit" letter.

In addition to the Forms BOE-1293-A, the districts will receive a list of ~~accounts which~~ accounts, which have been closed-out. This list will indicate whether or not the account has a security deposit. The type and amount of security will not be shown.

~~Obviously,~~ Some taxpayers may send in their request for retention after the deadline. For a few days after returning the list to Headquarters, you may call Headquarters Registration Unit to give them the number of an account that is not to be closed out. The number on your list will be circled to stop the closeout.

After the Form BOE-1293-A letter is sent it will be necessary to reinstate the account in the regular manner. Accounts closed out via the BOE-1293 process will show ~~code~~ closeout reason "9" as reason for closeout on the registration record.

## CLOSE-OUTS AND CLEARANCES

### SALES TAX CLEARANCES

650.000

#### EFFECT OF SALES TAX CLEARANCE

650.010

Certificates of Sales and Use Tax Clearance are issued under the provisions of Revenue and Taxation Code Section 6812 ~~of the Revenue and Taxation Code~~. Their issuance and the responsibility for determining when they should be issued are district office functions.

The only effect of issuing the clearance is to protect the purchaser of a business from being held liable as a successor for amounts which the seller fails to pay, limited to the extent of the purchase price. **It has no effect in relieving the seller of any liability.**

Clearances should not be issued until all of the liability of the seller has been determined and paid, or security in accordance with Revenue and Taxation Code Section 6813 ~~of the Revenue and Taxation Code~~ has been posted. If an audit is to be made, issuance of the clearance should be withheld until the audit has been completed and the liability, if any, has been paid, including any successor's liability, or as stated above security is posted in accordance with Section 6813 ~~of the Revenue and Taxation Code~~.

#### WHEN TO ISSUE SALES TAX CLEARANCES

650.020

When the purchaser of a business or his/her agent makes a written request for a sales tax clearance, the Board must either issue the certificate of sales tax clearance or mail a notice to the purchaser at his/her address, as it appears on the records of the Board, of the amount that must be paid as a condition of issuing the certificate. The Board must either issue the certificate or mail the notice of payment due within 60 days after receipt of the request by the Board, or within 60 days from the date on which the former owner's records are made available for audit, or 60 days from the date of the sale of the business or stock of goods, whichever expires later.

*Reference: ~~Sales Tax Regulation 1702.~~*

Should the Board fail to mail the notice within the prescribed period of time, the purchaser is released from any obligation as a successor.

- Issue a BOE-471, Certificate of Payment, when it has been determined that no tax, interest or penalty is due from the seller for the period of operation.
- Issue BOE-1274, Notice of Amounts Due and Conditional Release, when it has been determined that there is or will be tax, penalty or interest due from the seller for the period of operation. (See Section 650.030)

*Reference: Revenue and Taxation Code Section 6812, ~~Sales and Use Tax Law~~*

#### CONDITIONAL SALES TAX CLEARANCES TO ESCROW AGENTS

650.030

After a clearance has been requested by an escrow agent and a liability is owed by the seller, a BOE-1274 may be furnished to the escrow agent with a letter of transmittal stating that its use is conditional upon payment of the amount due. If there is any reason to believe that payment from the escrow agent is uncertain, or no escrow agent is involved, the release should not be issued until full payment has been received. A copy of every release should be routed to Headquarters Special Procedures Section.

#### SALES TAX CLEARANCE FOR NON-TAXABLE OPERATIONS

650.040

Any request for a clearance for the sale of a business not requiring a seller's permit may be complied with after it has been verified that no seller's permit was required. The sale of the equipment, along with a business of a type not required to hold a seller's permit, is regarded as an occasional sale and is not taxable unless it is one of a series of sales that would cause the owner to be a retailer of fixtures and equipment. The regular clearance form may be used in these situations.

*Reference: ~~Sales Tax Regulation 1595~~*

## **CERTIFICATE OF USE TAX CLEARANCE**

**655.000**

### **FORM BOE-111, CERTIFICATE OF MOTOR VEHICLE/MOBILEHOME OR COMMERCIAL COACH USE TAX EXEMPTION/CLEARANCE**

**655.032**

~~Except for those vehicles requiring Form BOE 1138, Certificate of Excise Tax Clearance, The transfer of the registration of any vehicle, mobilehome or commercial coach subject to use tax under the Sales and Use Tax Law and/or annual license fees under the Health and Safety Code may be effected by DMV/HCD only after use tax has been paid directly to that department or a Form BOE-111, Certificate of Use Tax Clearance/Exemption, has been issued by the Board. Form BOE 1138 is only required of vehicles powered by Use Fuels (LPG, CNG, and alcohol fuels) and any transfers of diesel powered vehicles prior to July 1, 1995. In these instances the taxpayers should be referred to the Fuel Taxes Division.~~

### **FORM BOE-111-B, CERTIFICATE OF VESSEL USE TAX EXEMPTION**

**655.033**

~~The T~~transfer of the registration of any undocumented vessel subject to use tax under the Sales and Use Tax Law may be effected by the Department of Motor Vehicles only after use tax has been paid directly to that department or a Form BOE-111-B, Certificate of Vessel Use Tax Certificate/Exemption, has been issued by the Board.

### **ISSUANCE OF FORMS BOE-111 AND BOE-111-B**

**655.034**

The BOE-111/111-B is issued by the Board in the following situations:

- The registrant claims an exemption and provides sufficient documentation to confirm use tax is not due.
- The registrant claims an exemption that may qualify, but the exemption period has not expired. The registrant must provide documentation that shows delivery/possession took place out of state to proceed with this claim.
- The registrant pays the use tax to the Board.
- The registrant has requested an installment payment proposal that has been approved and will be paying the use tax under that agreement. A billing is issued for all approved payment proposals.

NOTE: A BOE-111/111-B is never issued for a documented vessel or an aircraft.

Forms BOE-111 and BOE-111-B are issued by the district/branch office or Consumer Use Tax section (CUTS) by an employee authorized by the District Administrator or CUTS supervisor. A list of employees authorized to sign and issue certificates should be maintained in each office. The person who approves the Form BOE-106 may also sign the certificate. However, if the same person prepares and approves the Form BOE-106, a different person should sign the certificate. Rubber stamp signatures will not be used.

In those situations where the use tax is collected at the time of issuance of the BOE-111 or BOE-111-B, the certificate's press number should be entered on the tax return below the name and address of the taxpayer.

Forms BOE-111 and BOE-111-B are press-numbered for control purposes. Any voided form will be retained for three years. The stock of forms should be maintained and accessible only to the Receipts Custodian and the District Administrator/CUTS supervisor.

### **ISSUANCE OF FORMS BOE-111 AND BOE-111-B**

**655.034**

~~Forms BOE 111 and BOE 111 B are issued at the district or branch office by an employee authorized by the district administrator. A list of employees authorized to sign and issue certificates should be maintained in each office. The~~

## CLOSE-OUTS AND CLEARANCES

~~person who approves the Form BOE 106 may also sign the certificate. However, if the same person prepares and approves the Form BOE 106, a different person should sign the certificate. Rubber stamp signatures will not be used.~~

~~In those situations where the use tax is collected at the time of issuance of the BOE 111 or BOE 111 B, the certificate press number should be entered on the tax return below the name and address of the taxpayer.~~

~~Forms BOE 111 and BOE 111 B are press numbered for control purposes. Any voided form will be retained for three years. The stock of forms should be maintained in accordance with CPPM Section 815.020 and accessible only to the Field Office Cashier and the District Administrator (or authorized representative). See CPPM Section 815.000 et. seq. for additional policy and procedure on control of press numbered forms.~~

### **PREPARATION OF FORM BOE-106, VEHICLE/VESSEL OR MOBILEHOME USE TAX INFORMATION EXEMPTION**

**655.036**

~~When a request for use tax exemption is taken in a district or branch office, Form BOE 106 must be prepared for each request. When request for use tax exemption is received, Form BOE-106 should be prepared for each request. Whenever possible, the front of the form should be completed by the taxpayer. The back of the form is to be completed by a Board personnel employee and approved by a supervisor or designee. The completed form should indicate that the documentation required to verify the exemption has been provided, and copies of this evidence should be attached to the request.~~

~~A single BOE-111/111B may be issued for bulk transfers. Note on the BOE-111 (under year model and VIN areas) the following: "See attached schedule" and attach the schedule.~~

~~Form BOE 106 must be completed to show all information required for preparation of the Form BOE 111 or BOE 111 B and documentation furnished to substantiate an exemption. When possible, copies of evidence presented to substantiate an exemption should be attached to the Form BOE 106.~~

~~The inability to pay the use tax to DMV at the time of registration is not a valid reason to approve the issuance of Form BOE 111.~~

~~After the When Form BOE-111 or BOE-111B is issued, the press-number of the form and the name of the employee who signs the form are entered on the respective lines of the Form BOE-106. Refer to CPPM Section 815.000 regarding requirements for all press numbered forms.~~

### **PREPARATION OF FORM BOE-111, AND FORM BOE-111-B**

**655.038**

The use tax ~~exemption~~ clearance certificate is prepared only in original and is delivered to the person requesting the exemption.

The certificate is to be typewritten. If an error is made, a new Form BOE-111 or BOE-111-B must be prepared as any alteration or erasure voids the certificate.

The use tax ~~exemption~~ clearance certificate is completed to show the name of applicant as it will appear on the vehicle/vessel, or mobilehome or commercial coach registration records; make/year model, license/decal or CF number, engine/vehicle/hull or identification number or serial number; DMV or HCD suspense receipt number if issued; and the date of issuance and the issuing office.

If a vehicle/vessel or mobilehome registration packet that includes a Form BOE 111 or BOE 111 B is referred to the Consumer Use Tax Section by DMV or HCD, the Section will not look beyond the certificate. The presence of the certificate indicates the district office has reviewed the transfer for any use tax liability and has resolved all problems.

### **REFINANCING OF VEHICLES**

**655.130**

The addition or change of a legal owner, or filing of a chattel mortgage on a vehicle, does not constitute a transfer of registration, and consequently, the Department of Motor Vehicles does not require a tax clearance certificate for such transactions.

The Board will not furnish tax clearance certificates for the purpose of refinancing equipment. Should any finance company having an interest in a vehicle of the user insist upon assurance that the user is not delinquent in the payment of his tax, the finance company should be informed by letter with respect to the taxes due from the user.

## **INTERVENING OWNERS** **655.140**

A vehicle may change ownership or possession from the original user in whose name it is registered to several subsequent owners before a request is made for clearance and transfer of registration. Whenever this occurs, the tax liability of each person having subsequent ownership of the vehicle, other than the person to whom the vehicle is to be transferred, must be determined ~~and paid before a tax clearance certificate may be issued.~~

If any person other than the registered owner had ownership of the vehicle prior to the time of transfer, obtain information concerning the names and addresses of the intervening owners and determine whether or not a tax liability has been incurred. If there were sales of the vehicles between private parties and use tax would be applicable, sufficient information should be obtained in order that the proper amount of tax can be assessed against and collected from each purchaser.

The amounts due from intervening owners are billed by sending a memo to the Consumer Use Tax Section attaching copies of any pertinent documents. ~~The use tax clearance may be issued by taking a third party deposit for the estimated taxes due from all previous owners.~~ is information includes:

- Owner name , address, and telephone number.
- Purchase date.
- Purchase price
- Registration number (vehicle license plate number, vessel CF number).
- Make, model, and year.

## CLOSE-OUTS AND CLEARANCES

## FORM BOE 406, NOTICE OF CLOSE-OUT

BOE-406 (FRONT) REV. 14 (7-97)

## NOTICE OF CLOSE-OUT

## EXHIBIT 1

STATE OF CALIFORNIA

## BOARD OF EQUALIZATION

RETURN(S) FURNISHED ☐ YES ☐ NO

PERIOD(S) \_\_\_\_\_

C.O. MASTER AND ALL SUBS; SAME C.O. DATE

AND REASON CODE ☐ YES ☐ NO

REMOTE INPUT

Date \_\_\_\_\_

By \_\_\_\_\_

☐ SECURITY☐ ESCROW

CLOSE-OUT DATE

M D Y

## A. IDENTIFICATION OF ACCOUNT

OWNER(S)

ACCOUNT NUMBER

TAX

OFFICE

NUMBER

LOCATION OF BUSINESS

NEW OR FORWARDING ADDRESS

PHONE NO.

TYPE OR NATURE OF BUSINESS

NEW OWNER(S)

## REASON FOR CLOSE-OUT

CODE  
NO.DID NOT OPERATE ☐

1

BUSINESS DISCONTINUED

No Successor ☐

2

Assignment or Bankruptcy ☐

3

CHANGE IN OWNERSHIP

Business Sold (New Entity) ☐

4

Change in Partnership ☐

5

Other Reorganization ☐

6

ISSUE & CANCEL attach to App. ☐

7

CLOSE-OUT AFTER REVOCATION ☐

8

REPORTING BASIS

☐ M ☐ Q ☐ Y ☐ FY ☐

STARTING DATE

M D Y

ACCOUNT NUMBER

SUCCESSOR'S LIABILITY

☐ Yes ☐ No

PURCHASE PRICE

\$

RELATED BOARD ACCOUNT NUMBERS

CLOSE-OUT PREPARED BY

OFFICE

DATE

ACCOUNT RECORD VERIFIED BY

BT-406-CS ATTACHED FOR

☐ Master & All Subs

## B. REPORT ON CLOSE-OUT

VALUE OF FURNITURE AND EQUIPMENT SOLD - SUBJECT TO TAX (REGULATION 1595)

\$

INCLUDED IN FINAL

☐ Return ☐ BT-1043-D ☐ BOE-1043 ☐ Audit ☐ BT-414-B

SOURCE OF INFORMATION FOR VALUE OF FURNITURE AND EQUIPMENT OR REGULATION 1595 NOT INVOLVED (EXPLAIN)

DISPOSITION OF INVENTORY, PURCHASES FOR RESALE OR FROM OUT-OF-STATE IS INCLUDED IN:

☐ Final Return ☐ BOE-1043 ☐ Audit ☐ BT-1043-D ☐ BT-414-B☐ Retained (See Remarks) Sold for

FORM BT-467 ISSUED

☐ Yes ☐ No

REQUEST IN WRITING FOR FORM BT-471

☐ Yes ☐ No

DATE RECEIVED

CERTIFICATE OF HIGHWAY TAX CLEARANCE ISSUED

☐ Yes ☐ No

LOCATION OF RECORDS

IN CARE OF

PHONE NO.

DATE PRIOR AUDIT COMPLETED

COVERING PERIOD

From

To

LIABILITY RECOMMENDED

\$

AUDIT RECOMMENDED

☐ Yes ☐ No

AUDITOR'S WORK SHEET FORM 414

☐ in District ☐ To be Ordered from HQ☐ BT-10☐ 414-A☐ 414-B☐ 414-C

Show Total Due in Section E

REASONS FOR AUDIT RECOMMENDATION AND OTHER REMARKS

Cell

RGA

AUDIT RECOMMENDATION BY

DATE

APPROVED BY

DATE

# COMPLIANCE POLICY AND PROCEDURE MANUAL

## FORM BOE 406, NOTICE OF CLOSE-OUT

**EXHIBIT 1**

BOE-406 (BACK) REV. 14 (7-97)

### D. ESCROW AGENTS AND PREDECESSORS

ESCROW AGENT	ESCROW NO.
ADDRESS	PHONE NO.
TAX LIABILITY IN PREDECESSOR'S ACCOUNT <i>(if tax liability exists show amount in Section E)</i> <input type="checkbox"/> YES <input type="checkbox"/> NO	PREDECESSOR'S ACCOUNT NO.

### E. DISPOSITION OF SECURITY AVAILABLE

SAVINGS AND LOAN CERTIFICATES \$	<input type="checkbox"/> CASH & APPLY <input type="checkbox"/> RELEASE	TIME CERTIFICATE OF DEPOSIT \$	<input type="checkbox"/> CASH & APPLY <input type="checkbox"/> RELEASE
TREASURY BOND \$	NO.		<input type="checkbox"/> CASH & APPLY <input type="checkbox"/> RELEASE
SURETY BOND \$	NO.	EFFECTIVE DATE	
NAME OF SURETY			

OTHER

SECURITY UNDER OTHER BUSINESS TAXES ACCOUNTS <input type="checkbox"/> YES <input type="checkbox"/> NO	AMOUNT \$	ACCOUNT NO.
--	--------------	-------------

BALANCES	DATE BAL. AND DEL. CHECKED
----------	-------------------------------

DELINQUENCIES	CASH DEPOSIT		
---------------	-----------------	--	--

RETURNS AND BILLINGS	TOTAL DUE	AMOUNT PAID	* EVIDENCE OF PAYMENT	DEDUCT		
FINAL RETURN      PERIOD						
RETURN						
RETURN						
BT-1043-D						
FIELD BILLING ORDER						
FINAL AUDIT						
UNPAID BALANCE						
PREDECESSOR'S BALANCE LIABILITY UNDER						
RELATED ACCOUNT NOS.						

**\* IF PAYMENT MADE BY PERSONAL CHECK,  
INDICATE BY CIRCLING AMOUNT.**

BALANCE OWING <input type="checkbox"/> \$	TOTAL DEDUCTIONS
ESCROW CLAIM FILED <input type="checkbox"/> \$	AMOUNT TO BE REFUNDED TO: NAME
ESCROW WITHHOLD FILED <input type="checkbox"/> \$	ADDRESS
ESCROW RELEASE APPROVED BY <input type="checkbox"/>	

SECURITY REPORT PREPARED BY	DATE	SECURITY REPORT APPROVED BY	DATE
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